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T-346 P.001/004 F-810

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PATENT, TRADEMARK
AND COPYRIGHT LAW

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Date: December 16, 2004

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FACSIMILE COVER LETTER

Facsimile Number: (703) 872-9306

To: Examiner N. Moazzami
Group Art Unit 2187, USPTO

From: Mr. Daniel J. Stanger
MATTINGLY, STANGER & MALUR, P.C.

Re: USSN 10/828,283
Attorney Docket No.: NIT-316-02

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following listed documents are being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below:

WITHDRAWAL OF PRIOR TERMINAL DISCLAIMER FILED NOVEMBER 29, 2004, AND SUBMISSION OF NEW TERMINAL DISCLAIMER BEARING CORRECT PATENT INFORMATION; and Terminal Disclaimer.



Daniel J. Stanger
Reg. No. 32,846

December 16, 2004

Date

Total Number of Pages (including cover sheet): 4

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NIT-316-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

K. SOEJIMA et al

Serial No. 10/828,283

Group Art Unit: 2187

Filed: April 21, 2004

Examiner: N. Moazzami

For: VOLUME MANAGEMENT METHOD AND APPARATUS

WITHDRAWAL OF PRIOR TERMINAL DISCLAIMER FILED NOVEMBER 29,
2004, AND SUBMISSION OF NEW TERMINAL DISCLAIMER BEARING
CORRECT PATENT INFORMATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

December 16, 2004

Sir:

Pursuant to a telephone call from the Examiner, the Applicants submit herewith a new Terminal Disclaimer to replace that filed November 29, 2004. The prior Terminal Disclaimer apparently contained an error in citation to the patent forming the basis of the disclaimer. Thus, by this paper, the Applicants withdraw the Terminal Disclaimer filed November 29, 2004, in favor of the new Terminal Disclaimer filed herewith.

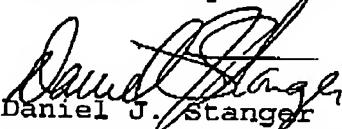
U.S. Serial No. 10/828,283

NIT-316-02

Because the prior Terminal Disclaimer contains an error propagated from a similar error in the recent Office Action, and because the prior Terminal Disclaimer is being withdrawn, the Applicants submit that no fee is due for entry of the new Terminal Disclaimer submitted herewith. However, should any fee be deemed due, the fee may be charged to Deposit Account No. 50-1417.

The Examiner is invited to telephone the Applicants' representative at the number below if this submission is in any way deficient. Otherwise, the Applicants request reconsideration of the rejection and allowance of the application.

Respectfully submitted,


Daniel J. Stanger
Registration No. 32,846
Attorney for Applicants

MATTINGLY, STANGER & MALUR, P.C.
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Date: December 16, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of
Serial No. 10/828,283
Filed: April 21, 2004
For: VOLUME MANAGEMENT METHOD
AND APPARATUS

K. SOEJIMA et al.
Group Art Unit: 2187
Examiner: N. MOAZZAMI

TERMINAL DISCLAIMER TO OBLVIA TE A DOUBLE PATENTING
REJECTION (37 CFR 1.321(b)) (ref OG 7-28-92)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

December 16, 2004

Sir:

The evidentiary documents accompanying or referred to in the Terminal Disclaimer have been reviewed by the undersigned and it is certified that, to the best of the assignees' knowledge and belief, title is in the assignees seeking to take action.

The Assignment was recorded on February 19, 2002, at Reel 012592, Frame 0222. Assignee/Assignees: Hitachi, Ltd.

We the Petitioners, as indicated herein, are the owners of 100 percent interest in the instant application. Petitioners hereby disclaim, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of U.S. Patent No. 6,748,489. Petitioners hereby agree that any patent so granted on the application shall be enforceable only for and during such period that it and the above-listed patent are commonly owned. This agreement runs with any patent granted on the application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioners do not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of the above-listed patent in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The undersigned is an attorney of record who may sign this Disclaimer in accordance with 37 CFR § 1.321(b)(1)(iv).

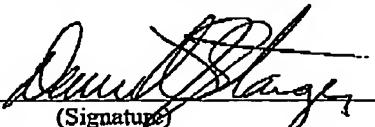
We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Attorney of Record:

Daniel J. Stanger
(Printed Name)

Attorney of Record
(Printed Title)

December 16, 2004
(Date)


(Signature)

Terminal disclaimer fee under 37 CFR 1.20(d) included.
 The Commissioner is hereby authorized to charge any additional payment due, or to credit any overpayment, to Deposit Account No. 50-1417.
 PTO suggested wording for terminal disclaimer was
 unchanged, changed (if changed, an explanation should be supplied).